



## Committee on Professional Ethics

Opinion #249 - 5/24/72 (27-72) Topic: Conflict of Interest; part-time legal aid lawyers

Digest: Counsel for police benevolent association and individual police officers may accept legal aid defense work, absent actual conflict or client objection.

Code\*: Canon 5.  
EC 5-1; 5-14; 5-15; 5-16; 5-19; 5-21  
DR 5-101(A); 5-105.

### QUESTION

May a lawyer who serves as counsel for a local patrolmen's benevolent association, and who represents several individual police officers charged with illegal police activities, accept employment as a part-time legal aid criminal defense counsel in the same community?

### OPINION

The principles governing this question are found in Canon 5; EC 5-1, 5-14, 5-15, 5-16, 5-19 and 5-21; and in DR 5-101(A) and 5-105.

The mere fact that a lawyer concurrently represents a patrolmen's benefit association and several individual patrolmen charged with illegal police activities, and also represents one or more criminal defendants in totally unrelated matters does not necessarily involve him in compromising loyalties which would impair his independent professional judgment. In certain instances, however, a clear conflict of interest would be involved, which would make it improper for the lawyer to undertake the defense of a particular criminal case. For example, the lawyer may not undertake the defense of a criminal case in which a patrolman client might be a witness against the accused, or where a patrolman client had participated in the investigation or arrest.

Even in instances where there is no actual or potential conflict of interest, EC 5-19 imposes obligations on the lawyer undertaking to represent both law enforcement officers and criminal defendants. EC 5-19 provides:

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**NEW YORK STATE BAR ASSOCIATION**  
**Professional Ethics Committee Opinion**

Opinion #249

-2-

"A lawyer may represent several clients whose interests are not actually or potentially differing. Nevertheless, he should explain any circumstances that might cause a client to question his undivided loyalty. Regardless of the belief of a lawyer that he may properly represent multiple clients, he must defer to a client who holds the contrary belief and withdraw from representation of that client."

The obligation to disclose arises with increasing frequency because of the number of cases which involve issues relating to the legality of the conduct of law enforcement officials in connection with the arrest and interrogation of the accused or the search for and seizure of incriminating evidence. If the defendant indicates a preference to have some other lawyer represent him, the lawyer should decline to serve. If the lawyer has been designated to represent defendant by court appointment, he should inform the court of the circumstances and request that he be relieved from the assignment.

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